REMARKS

Claims 1 through 24 are pending in this application. Claim 1 is amended in several particulars for purposes of clarity in accordance with current Office policy, to assist the examiner and to expedite compact prosecution of this application. Claim 24 has been newly added.

I. REJECTION OF CLAIMS (35 U.S.C. § 103)

Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins et al. (6,002,868) (hereinafter Jenkins) in view of Philyaw et al. (6,704,864) (hereinafter Philyaw). The Applicant respectfully traverses.

According to MPEP 706.02(j), the following establishes a *prima facie* case of obviousness under 35 U.S.C. §103:

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art

and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

1. The Examiner stated that as per claims 1,8 and 17, Jenkins discloses a system for real-time device driver error handling comprising a computer comprising a device driver (col 3, lines 24 and col 10, lines 26-28), a monitoring unit and a device driver information said monitoring unit monitoring an operating state and searching said device driver information (col 6, lines 23-28), and outputting a diagnosing message to said computer when said device driver errors occur (col 6, lines 23-67 and col 7, lines 45-55);comprising a driver error handling program (col 8, lines 26-33), said device driver error handling program storing a standard driver information (col 8, lines 26-33), performing a diagnosis of said device driver by comparing said standard driver information with said device driver information (col 8, lines 26-53), and displaying said diagnosing result on said computer (col 8, lines 26-52). However, the Examiner states that Jenkins fails to disclose that central monitoring station is a web server. However, the Examiner goes on to state that Philyaw discloses a web server (col 4, lines 43-48), and therefore it would have been obvious to one of ordinary skill in the art at the time invention is made to combine Philyaw with Jenkins because it would provide an architecture for automatic configuring a software of a computer system which can be executed remotely on the client machine.

First of all, Jenkins (and also the combination of Jenkins and Philyaw) fails to teach or suggest the monitoring unit monitoring the operational state of the device driver as mentioned in claims 8, 17 and amended claim 1. The Examiner mentions col. 6, lines 23-28, but lines 23-28 only states that the test dispatcher module 216 is responsible for the list of tests to be run and calling the individual DLs to dispatch the diagnostic tests and builds records as seen in table 2 for performing the tests. Then on col. 7, lines 45-56, Jenkins states that the DLs are the diagnostic libraries that are responsible for identifying all of the hardware devices in the computer and specifying valid tests for each hardware device. However, it is clear that the operational state of the device drivers are not checked by the monitoring unit but dispatcher module 216 calls a plurality of diagnostic libraries to test the devices, but there is no mention of actually determining the monitoring state of the device drivers.

Secondly, Jenkins (and also the combination of Jenkins and Philyaw) fails to teach or suggest the monitoring unit outputting a diagnosing message to said computer when said device driver errors occur (col 6, lines 23-67 and col 7, lines 45-55) as mentioned by the Examiner. As seen in col. 6, lines 23-67, there is only a teaching of records built by the test dispatcher module in table 2 and in col. 7, lines 45-55, Jenkins only teaches of the diagnostic libraries identifying all of the hardware devices, specifying and relaying test status and errors of the devices, but nothing about the diagnosing errors of the device drivers themselves.

Thirdly, the combination of Jenkins and Philyaw fail to teach or suggest a web server comprising a driver error handling program, said device driver error handling program storing a standard driver information, performing a diagnosis of said device driver by comparing said standard

driver information with said device driver information, and displaying said diagnosing result on said computer as claimed for example in claim 1. The Examiner only states that Philyaw teaches of a web server but fails to mention said device driver error handling program storing a standard driver information, performing a diagnosis of said device driver by comparing said standard driver information with said device driver information, and displaying said diagnosing result on said computer. Looking at the whole references of Philyaw and Jenkins individually, and the combination of Philyaw and Jenkins, no such error handling program on the web server is taught or suggested. For example, Philyaw's server is used to update the information on the PC that shows television programs with the URL of the advertiser and generally mentions about device driver updates. Updating the device driver is not necessarily the same as correcting device driver errors. But nothing suggests or teaches of the error handling program on the web server as claimed in the present invention. Even when combined with Jenkins, no such error handling program *of the web server* is taught or suggested, as Jenkins teaches of the error handler module 218 being on the PC only with no suggestion that it would be remotely located on the server. By merely stating that a Web server is included does not teach or suggest that Jenkins can be modified to include the error handling program remotely on the web server when no such specific motivation of moving the error handling program to the web server is suggested by the references. Automatically configuring software of Philyaw is not the same as performing the techniques of the error handling program. The Federal Circuit has mentioned that "[t]he test for obviousness is not whether the features of one reference may be bodily incorporated into another reference...Rather, we look to see whether combined teachings render the claimed subject matter obvious." *In re Wood*, 599 F.2d 1032, 202

USPQ 171, 174 (CCPA 1979) (citing *In re Bozek*, 416 F.2d 1385, 1390, 163 USPQ 545, 549-50 (CCPA 1969); *In re Mapelsden*, 329 F.2d 321, 322, 141 USPQ 30, 32 (CCPA 1964). Here, the combined teaching of the references have failed to render the presently claimed invention obvious.

Fourthly, the combination of references fails to teach or suggest storing standard diagnosis information of said device driver on a second computer, said standard diagnosis information being when an operational state of said device driver is normal as mentioned for example in claim 17. The Examiner fails to address this limitation of claim 17. The Examiner however in the rejection of claims 2, 12, 18, 18 and 19 does state Jenkins discloses a first portion storing said standard driver information in col. 8, lines 26-53, col. 4, lines 35-67, but in these sections and other sections of Jenkins is only teaching the storage of information on the first computer and not on the second computer as claimed in claim 17 for example.

Fifthly, the combination of references fails to teach or suggest comparing said standard diagnosis information with said monitored device driver information to confirm any error with said device driver as claimed for example by claims 8 and 17. The Examiner failed to discuss this feature of claims 8 and 17. Looking at the combination of references, neither Jenkins or Philyaw teaches or suggest of the comparison. There is only a mention of errors in tests. Furthermore, as seen for example in Jenkins in cols. 4 and 8, there is no standard driver information disclosed but that the error handler module is depository for the errors themselves.

Sixthly, the Examiner fails to provide a proper suggestion or motivation to combine Philyaw and Jenkins. The Examiner only stated that it would have been obvious to one of ordinary skill in the art at the time invention is made to combine Philyaw with Jenkins because it would provide an architecture for automatic configuring a software of a computer system which can be executed remotely on the client machine. "Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability. *In re Dembiczak*, 175 F.3d 994, 50 USPQ.2d 1614 (Fed. Cir. 1999). The showing must be "clear and particular" without broad generalized conclusory statements. *Id.* There must be specific statements showing the scope of the suggestion, teaching, or motivation to combine the prior art references. *Id.* at 1000. There must be an explanation to what specific understanding or technical principle would have suggested the combination of references. *Id.* Respectfully, the motivation given by the examiner of "an architecture for automatic configuring a software of a computer system which can be executed remotely on the client machine" , is a broad generalized conclusory statement. Furthermore, according to MPEP 706.02(j), the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure.

2. As per claims 2, 12, 18 and 19, the Examiner stated that Jenkins discloses a first portion storing said standard driver information (col 8, lines 26-53, col 4, lines 35-67); a second portion interpreting said device driver information (col 10, searched by said monitoring unit (col 8, lines 26-53, and col 4, lines 35-67); a third portion performing a diagnosis of said device driver by comparing

said standard driver information from said first portion with said device driver information from said second portion (col 8, lines 26-53, col 4, lines 35-67); and a fourth portion displaying the diagnosing result from said third portion to said computer (col 8, lines 26-53, col 4, lines 35-67).

First, Jenkins (as combined with Philyaw) does not teach or suggest a first portion of said web server storing said standard driver information (col 8, lines 26-53, col 4, lines 35-67) as the Examiner states. As mentioned above, Jenkins teaches of the error handling module 218 being a repository for the errors themselves and not the standard driver information which for example in claim 17 states is when the operational state of the device driver is normal. Furthermore, the errors are not the errors of the device driver itself. Therefore, the standard driver information of the device drivers is not stored in the first portion located on the web server.

Secondly, Jenkins (as modified by Philyaw) fails to teach or suggest a second portion of said web server interpreting said device driver information (col 10), searched by said monitoring unit (col 8, lines 26-53, and col 4, lines 35-67). A second portion of said web server is never taught or suggested by Jenkins as modified by Philyaw as the error handling module is never said to interpret the device driver information, but Jenkins does mention a recommended action module recommending on how to fix the error, but never is specifically teaching or suggesting of interpreting the device driver information and as shown above, and never is the modules of Jenkins to be included in web server of Philyaw.

Furthermore, which portion or modules are to be included in the web server and which are

to be on the first computer is a question that can be only answered by the present invention and not Jenkins or Philyaw. Therefore, it is only by using the blueprint of the present invention, that the location of the different features being on the web server or the first computer can be seen. As mentioned in MPEP 706.02(j), "prior art reference (or references when combined) must teach or suggest all the claim limitations" and not the present invention.

Thirdly, Jenkins (and the combination of Jenkins and Philyaw) fails to teach or suggest a third portion of a web server performing a diagnosis of said device driver by comparing said standard driver information from said first portion with said device driver information from said second portion (col 8, lines 26-53, col 4, lines 35-67). Looking at col. 8 and col. 4, the actual comparison is not taught or suggested and the comparison with the device driver information and the standard device driver information is not taught or suggested in cols 8 and 4. Only general disclosures of fixing an error is mentioned, but with no specifics as seen in col. 8 and 4 of Jenkins. As mentioned above, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Fourthly, Jenkins (and the combination of Jenkins and Philyaw) fails to teach or suggest a fourth portion of the web server displaying the diagnosing result from said third portion to said computer (col 8, lines 26-53, col 4, lines 35-67). As seen in cols 8 and 4, no such separate fourth portion displays the diagnosing result from a separate third portion of the web server. In col. 8, a front end monitors the error handler for reporting to the user, but it is not clear that the error handler

is considered the third portion as above, as the third portion was said to be diagnosing and comparing which is not the function of the error handler as the error handler only reports the errors. Therefore, the actual interaction of the different parts of the web server are not taught or suggested, as it is not entirely clear which portion the Examiner is referring to in the office action and even then taking the parts of the Jenkins, the parts do not interact in the same manner has the present invention.

3. As per claims 3, 9, 10, and 20, the Examiner stated that Jenkins discloses a displaying the error correction result to said computer after automatically correcting the error by said standard diagnosis information stored in said first portion in case of an automatically correctable error (recommended action module, col 8, lines 26-53), said fourth portion displaying how to correct the error to said computer in case of automatically uncorrectable error when the device driver error occurs (col 8, lines 26-53).

However, looking closely at col. 8, lines 26-53 and the remaining portion of Jenkins, there is no differentiation when the error is correctable or not as claimed in the present invention. Col. 8 of Jenkins only mentions of reporting to the user of errors and the recommended action module containing information on what to do to fix an error and the error handler uses this information to recommend corrective action or response to the error, but it does not clearly and specifically teach or suggest different actions when the error is correctable or not. In Jenkins, logically the error can be only reported as to how to fix the error instead of fixing the error even when the error is fixable.

4. As per claims 5, and 14, the Examiner stated that Jenkins discloses, with said file not being

able to be manipulated by a user of said computer (col 8, lines 26-53, col 4, lines 35-67).

However, reading the entire text of Jenkins and Philyaw and especially col. 8 and 4 of Jenkins, no such teaching is ever made. The user not being able to manipulate the file is never taught or suggested. In fact, looking at Jenkins, it can be argued, that nothing in the teachings of Jenkins prevents the manipulation of the file by the user of the computer.

5. As per claims 6, and 15, and 21, the Examiner stated that Jenkins does not specifically teaches standard driver information being changeable by an operator of said web server, however, Philyaw discloses standard driver information being changeable by an operator of said web server (col 4, lines 43-48 and col 26, lines 10-14). Therefore according to the Examiner, it would have been obvious to one of ordinary skill in the art at the time invention is made to combine Philyaw with Jenkins because it would provide an architecture for automatic configuring a software of a computer system which can be executed remotely on the client machine.

However, looking at col. 4, lines 43-48 of Philyaw, teaches of a program on the first computer being web browser and col. 26, lines 10-14 Philyaw teaches of obtaining configuration information related to a device driver update and/or software application update where a user PC and software data is transmitted from the *user PC*. However, there is no teaching or suggestion about changing the standard information stored on the second computer or web server by an operator of the web server, but instead is teaching of the user PC making changes and the mere fact update is mentioned does not necessarily teach or suggest the user of the web server making the changes.

6. As per claims 7, 16, and 22, the Examiner states that Jenkins discloses with the automatically uncorrectable error being a hardware error of said computer or a device corresponding to said device driver (col 7, lines 45-55).

However, looking at col. 7 of Jenkins it is clear, that Jenkins only concerns the hardware and the device but not the device drivers. Therefore, there is no differentiation between the device driver and device itself since Jenkins is dealing only with the device or hardware errors.

7. As per claim 23, the Examiner stated that Jenkins discloses a correction of the error when the error is automatically correctable and when said first computer opted no correction in said step of prompting a response from said first computer (col 8,lines 26-54); executing no correction of the error when the recommendation is not accepted computer (col 8,lines 26-54); and correcting the error when the recommendation is accepted computer (col 8, lines 26-54).

However, col. 8, lines 26-54 fails to teach or suggest recommending a correction of the error when the correction of the error is automatically correctable and when the first computer opted no correction. Both these two limitations in the step is not taught or suggested by Jenkins which only teaches of "7)displaying all errors and recommended actions" only.

II. 37 C.F.R. §1.104

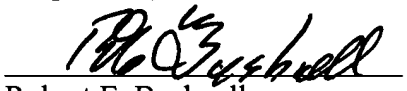
Further clarification by Examiner would be very helpful to the Applicant. Respectfully, the Examiner must provide the completeness in the rejection under 37 C.F.R. §1.104(b) and (c) in

formulating the rejection. As mentioned in 37CFR §1.104 (c)(2), "When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable." The particular parts relied upon were not always mentioned and therefore it makes it difficult for the Applicant to respond to the Examiner's rejection. Only in section 6 was the particular part of the recommended action module mentioned. The Applicant would greatly appreciate the Examiner's help in this matter of mentioning the particular part being relied with reference number.

In view of the foregoing amendments and remarks, all claims are deemed to be allowable and this application is believed to be in condition to be passed to issue. If there are any questions, the examiner is asked to contact the applicant's attorney.

A fee of $18.00 is incurred by this Amendment for the addition of one (1) claim above twenty-three (23). Applicant's check drawn to the order of the Commissioner accompanies this Amendment. Should there be a deficiency in payment, or should other fees be incurred, the Commissioner is authorized to charge Deposit Account No. 02-4943 of Applicant's undersigned attorney in the amount of such fees.

Respectfully submitted,



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